

IN THE SUPREME COURT OF THE STATE OF DELAWARE

JONATHAN T. TUE,	§
	§
Plaintiff Below-	§ No. 218, 2004
Appellant,	§
	§ Court Below—Superior Court
v.	§ of the State of Delaware,
	§ in and for Kent County
DELAWARE STATE POLICE,	§ C.A. No. 02C-12-022
	§
Defendant Below-	§
Appellee.	§

Submitted: January 7, 2005

Decided: February 23, 2005

Before **STEELE**, Chief Justice, **HOLLAND**, and **BERGER**, Justices.

**ORDER**

This 23rd day of February 2005, upon consideration of the parties' briefs and the record below, it appears to the Court that:

(1) Appellant Jonathan Tue filed this appeal from a Superior Court decision, dated April 23, 2004, which denied his motion to reopen a December 5, 2003 judgment dismissing his complaint without prejudice. We find no merit to the appeal. Accordingly, we affirm the Superior Court's judgment.

(2) The record reflects that, on December 12, 2002 Tue filed a civil case information statement and a letter with the Superior Court making conclusory charges of defamation, libel, perjury, personal injury, unlawful

imprisonment, fraud, and racial profiling. On February 13, 2003, the Superior Court granted Tue's motion to proceed in forma pauperis but directed him to file a complaint that complied with the Superior Court rules by including the facts upon which his claims were based. Thereafter, the Superior Court granted three separate requests by Tue to extend the filing deadline.

(3) In November 2003, without ever having filed a proper complaint, Tue filed a motion demanding a speedy trial. On December 5, 2003, the Superior Court dismissed Tue's action without prejudice for failing to comply with its prior directives. Tue did not appeal the Superior Court's dismissal of his case, nor did he attempt to file a proper complaint. Instead, in March 2004, he filed a motion with the Superior Court to reopen the judgment, which the Superior Court denied.

(4) On appeal, we review the denial of a motion to reopen a judgment for abuse of discretion.<sup>1</sup> It is manifest on the face of the record that the Superior Court did not err or abuse its discretion in this case. Tue's initial "complaint" contained no facts and clearly was insufficient to put the defendants on notice of the claims against them.<sup>2</sup> Despite being granted

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<sup>1</sup> See *Battaglia v. Wilmington Sav. Fund Soc'y*, 379 A.2d 1132, 1135 (Del. 1977).

<sup>2</sup> Del. Super. Ct. Civ. R. 8.

several extensions, Tue made no attempt to comply with the Superior Court's order to rectify his "complaint" to comply with the Superior Court Rules of Civil Procedure. Under the circumstances, Tue established no basis for the Superior Court to reopen its judgment.

NOW, THEREFORE, IT IS ORDERED that the judgment of the Superior Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland  
Justice